

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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JASON GOODMAN,	:
	:
Plaintiff,	: No. 21 Civ. 10878-AT-JLC
	:
-against-	: <i>Pro Se</i> Case
	:
	:
CHRISTOPHER BOUZY, et al.,	:
	:
Defendants.	:
	:
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**NOTICE OF MOTION TO DISMISS PLAINTIFF’S AMENDED COMPLAINT**

Pursuant to Rules 12(b)(6) and 15(a)(3) of the Federal Rules of Civil Procedure, Defendants Christopher Bouzy, Bot Sentinel Inc., Seth Berlin, and Maxwell Mishkin (together, “Movants”), respectfully move to dismiss the Amended Complaint filed by Plaintiff Jason Goodman in the above-captioned matter.

As to Defendants Bouzy and Bot Sentinel, the Amended Complaint challenges speech protected under the First Amendment and New York law. Specifically, as set forth in the accompanying memorandum of law: (1) Bot Sentinel is not alleged to have published the challenged statements and therefore cannot be held liable for defamation; (2) the principal challenged statement at issue in the Amended Complaint is substantially true and therefore nonactionable; (3) this true statement does not reasonably convey any actionable implication and, in any event, such an implication would be an absolutely protected expression of opinion, as would the other statement Goodman challenges in passing; and (4) under both the First Amendment and New York law, Goodman was required to plausibly plead that Bouzy published the challenged statements with “actual malice” fault, but failed to do so.

As to Defendants Berlin and Mishkin, the Amended Complaint – as best it can be parsed – alleges (1) that they violated the federal obstruction of justice statute when they sent a pre-motion letter to Goodman on behalf of their clients Bouzy and Bot Sentinel; and (2) that they participated in a conspiracy by purportedly receiving funds from Defendant Benjamin Wittes to underwrite the representation of Bouzy and Bot Sentinel. As set forth in the accompanying memorandum of law, the claim against Berlin and Mishkin fails for multiple reasons, including that the federal obstruction of justice statute does not create a private right of action; that the pre-motion letter was entirely proper and was by no means obstruction of justice; and that, even if Wittes had funded Berlin’s and Mishkin’s representation of Bouzy and Bot Sentinel – and he did not – that would not, as a matter of law, be unlawful.

Accordingly, Movants respectfully request that the Court dismiss the Amended Complaint with prejudice under Rule 12(b)(6). Because Plaintiff has appeared *pro se*, Movants have attached the notice required by Local Rule 12.1, and, pursuant to Local Rule 7.2, will provide unrepresented parties with copies of all unpublished orders cited in the accompanying memorandum of law.

Respectfully submitted,

BALLARD SPAHR LLP

By: /s/ Seth D. Berlin  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of January 2023, I caused true and correct copies of the foregoing Notice of Motion to be served by email and U.S. Mail First Class on the following:

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